PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

1986/87

annual report

88-03599/

PUBLIC SERVICE
EMPLOYEE RELATIONS BOARD

ANNUAL REPORT
for the
FISCAL YEAR ENDING MARCH 31, 1987

PUBLISHED BY AUTHORITY OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD
EDMONTON, ALBERTA

To Her Honour
W. Helen Hunley
Lieutenant Governor of the Province of Alberta

May it please your Honour,

On behalf of the Public Service Employee Relations Board, I respectfully submit to you the Annual Report for the period from April 1, 1986, to March 31, 1987, pursuant to the requirements of Section 77 of the Public Service Employee Relations Act, Revised Statutes of Alberta, 1980, Chapter P-33 and amendments thereto.

Respectfully submitted,

David J. Russell
Deputy Premier

To The Honourable David J. Russell
Government House Leader

Sir:

I have the honour to submit to you, on behalf of the Public Service Employee Relations Board, the Annual Report of the Board for the fiscal period April 1, 1986, to March 31, 1987.

Respectfully yours,

Catherine A. Fraser
Chairman

personnel

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

Chairman — Catherine A. Fraser, Q.C.

Alternate Chairman — Thomas W. Wakeling

Members —

Thomas K. Biggs

Jack Dyck

A. Roderick Turpin

Executive Director — John F. Elsinga

Secretary — Gordon P. Procinsky

ANNUAL REPORT
OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD
FOR FISCAL PERIOD ENDING MARCH 31, 1987

introduction

The Public Service Employee Relations Act, Revised Statutes of Alberta 1980, Chapter P-33 came into force on September 22, 1977, upon proclamation by Order in Council 965/77. It was amended in 1983 and again in 1985.

Section 17 of the statute embraces the right of an employee to be a member of and to participate in the lawful activities of a trade union, and to bargain collectively with an employer through a bargaining agent. The Act prescribes final and binding arbitration for the resolution of collective bargaining disputes and prohibits strike or lockout action. An employer and bargaining agent may at any time in their collective bargaining make joint application for the appointment of a mediator to assist in settling their dispute.

The legislation also requires that every collective agreement contain a procedure for the resolution of differences between the contracting parties as to the interpretation, application, operation or alleged contravention of their collective agreement.

The Public Service Employee Relations Act describes in considerable detail the basis upon which employees are to be included in or excluded from a bargaining unit of employees. In that regard Sections 9 and 21 of the Act confer authority upon the Public Service Employee Relations Board to make final and binding determinations where the bargaining agent and employer are unable to settle the matter of employee status for collective bargaining purposes.

Section 48 of the Act precludes the referral of certain items in dispute between the bargaining parties to arbitration. The Public Service Employee Relations Board has the responsibility and authority under the statute to make such determinations, a function that is an integral part of the Board's activities with respect to each application it receives seeking the establishment of an arbitration board for the resolution of a collective bargaining dispute.

Part 8 of the Act prohibits employees, trade unions and persons acting on their behalf from engaging in activities commonly referred to as unfair practices. In this part of the statute, the Public Service Employee Relations Board is given authority to inquire into complaints alleging such unfair practices and to impose remedial action when satisfied upon inquiry as to the substance of the complaint.

overview

Although relatively low during the first and second quarters, the Board's activities increased markedly during the last half of the 1986-87 fiscal year, and, as reflected elsewhere in this report, required a greater number of hearing and caucus dates than experienced in the previous year. While applications for the establishment of arbitration boards to resolve collective bargaining disputes and applications for the certification of bargaining agents constituted the bulk of the Board's caseload, the Board was also called upon to make a variety of other and frequently complex determinations under its constituent statute. Nonetheless, the number of settlements reported to the Board as a result of direct negotiations or with the assistance of a mediator reflect serious and meaningful efforts by both bargaining agents and employers under the jurisdiction of the Public Service Employee Relations Act to resolve their contract disputes.

There were no amendments made to the Public Service Employee Relations Act during this reporting period, and further, there were no changes made in the composition of the Board. One vacant Board member position remains to be filled.

Several decisions issued by the Board during this year were referred to the courts for judicial review. Particulars with respect to those actions are recorded elsewhere in this report.

application

The Public Service Employee Relations Act governs collective bargaining and related matters for more than 45,000 public service employees and their employers within the Province of Alberta. The majority of those employees are employed directly by the Crown in right of Alberta in the various departments of the provincial government's administration. They are represented by The Alberta Union of Provincial Employees as their bargaining agent, and function under a common Master collective agreement and twelve supplementary contracts, structured on occupational groupings.

Other employers and their employees to whom the Public Service Employee Relations Act applies include the following:

Corporations
- Alberta Mortgage and Housing Corporation
- Alberta Oil Sands Technology and Research Authority
- Alberta Opportunity Company
- Hail Crop Insurance Corporation

Commissions
- Alberta Alcoholism and Drug Abuse Commission
- Alberta Petroleum Marketing Commission
- Alberta Racing Commission

Universities (academic staff excluded)
- Athabasca University
- University of Alberta
- University of Calgary
- University of Lethbridge

Colleges (academic staff excluded)
- Alberta College of Art
- Banff Centre
- Fairview College
- Grande Prairie Regional College
- Grant MacEwan Community College
- Keyano College
- Lakeland College
- Lethbridge Community College
- Medicine Hat College
- Mount Royal College
- Olds College
- Red Deer College

Technical Institutes (academic staff excluded)
- Southern Alberta Institute of Technology
- Northern Alberta Institute of Technology
- Westerra Institute of Technology

Hospitals	— Alberta Children's Provincial General Hospital
	— Foothills Provincial General Hospital
	— Glenrose Rehabilitation Hospital
	— Alberta Cancer Board
	— University Hospitals Board
	— The Mental Health Hospital Board, Edmonton
	— The Mental Health Hospital Board, Ponoka
Boards	— Teacher's Retirement Fund Board
	— Workers' Compensation Board
	— Alberta Liquor Control Board (selected offices or departments only)
Councils	— Alberta Research Council

administration & personnel

The Public Service Employee Relations Board is responsible for the administration of the Public Service Employee Relations Act, and is established pursuant to Section 3 of the Act. The Chairman, Alternate Chairman and three members were all re-appointed in their respective capacities for two-year terms by Order in Council 704/85 dated October 16, 1985, effective November 2, 1985.

The Board has established rules of procedure in the form of administrative guides to govern the conduct of its business and proceedings before it. The Board's authority in this regard is set out in Section 6 of the Public Service Employee Relations Act.

significant cases

On December 7, 1984, the Alberta Court of Appeal issued its judgement in response to a Reference made to it by the Government of the Province of Alberta. In this Reference, the Court was asked for an opinion as to whether certain provisions in the Public Service Employee Relations Act interfered with the freedom of association of employees as dealt with particularly in Section 2 of the Canadian Charter of Rights and Freedoms.

An appeal from that judgement was launched by The Alberta Union of Provincial Employees and heard by the Supreme Court of Canada in the summer of 1985. The case was subsequently adjourned for decision and consolidated with a number of similar actions initiated in other parts of Canada for the purposes of disposition by the Supreme Court of Canada [Ref. re Pub. Service, etc. (Alta.) (1985) 2 W.W.R. 289]. No judgement was delivered during the course of this reporting period.

judicial review — cases

Decisions of the Public Service Employee Relations Board which were the subject of judicial review during the reporting period include the following:

1. The Mental Health Hospital Board Edmonton,
   of Edmonton, Alberta
   (Appellant)
   and
   The Alberta Union of Provincial Employees,
   Edmonton, Alberta
   (Respondent)
   and
   Lydia P. Ricafort, Calgary, Alberta
   (Respondent)
   The Public Service Employee Relations Board
   Edmonton, Alberta
   (Respondent)

In a judgement issued on May 16, 1986, the Alberta Court of Appeal reversed the decision of the Court of Queen's Bench and quashed the decision of the Public Service Employee Relations Board.
(PSERB Ref. 160-111-502)

2. The Foothills Provincial General Hospital,
   Calgary, Alberta
   (Appellant)
   and
   The Health Sciences Association of Alberta,
   Edmonton, Alberta
   (Respondent)
   The Public Service Employee Relations Board
   Edmonton, Alberta
   (Respondent)

This is an appeal from a judgement of the Court of Queen's Bench issued May 19, 1985, in which the decision of the Board dated December 21, 1984, was upheld. The Board's decision and reasons dealt with determinations as to the bargaining unit status of a number of persons employed by the Foothills Provincial General Hospital. An appeal from that judgement was taken to the Alberta Court of Appeal by the Employer but was discontinued on October 1, 1986.
(PSERB Ref. 100-041-506-6)

3. Her Majesty the Queen in right of the Province of Alberta,
   Edmonton, Alberta
   (Applicant)
   and
   The Alberta Union of Provincial Employees,
   Edmonton, Alberta
   (Respondent)
   and
   The Public Service Employee Relations Board,
   Edmonton, Alberta
   (Respondent)

These proceedings commenced with a decision of the Board and Reasons issued on December 31, 1984. By application to the Court of Queen's Bench, the Applicant requested the Court to quash certain of the Board's determinations on the arbitrability of items claimed in dispute. In a judgement issued April 15, 1985, the Court upheld the Board's determinations in respect of all but one matter.

An appeal from this judgement was taken to the Alberta Court of Appeal and is to be scheduled for hearing during 1987.
(PSERB Ref. 140-001-502)

4. The Alberta Union of Provincial Employees,
   Edmonton, Alberta
   (Applicant)
   and
   The Alberta Association of Registered Nursing Assistants,
   Edmonton, Alberta
   (Respondent)
   and
   The Public Service Employee Relations Board,
   Edmonton, Alberta
   (Respondent)

The applicant requested the Court of Queen's Bench to quash a decision issued by the Board on May 3, 1985, affecting an application to displace an

incumbent certified bargaining agent. The judgement of the Court issued on May 28, 1985, upheld the initial decision of the Board to grant certification.

An appeal from this judgement was dismissed by the Alberta Court of Appeal on November 3, 1986.
(PSERB Ref. 115-041-508)

5. The University of Alberta Hospitals Staff Nurses Association,
   Edmonton, Alberta
   (Applicant)
   and
   The Alberta Cancer Board,
   Edmonton, Alberta
   (Respondent)
   and
   The Public Service Employee Relations Board,
   Edmonton, Alberta
   (Respondent)
   and
   The Alberta Cancer Board Staff Nurses' Association,
   Edmonton, Alberta
   (Respondent)

This is an application to the Court of Queen's Bench of Alberta to quash a decision of the Board issued on August 13, 1986, relating to an application for certification of a bargaining agent. The principal focus of this request for judicial review is a determination by the Public Service Employee Relations Board as to the employee status of certain persons identified as 'Research Nurses'. This matter is scheduled for hearing during 1987.
(PSERB Ref. 115-039-516)

6. The Board of Governors of Medicine Hat College,
   Medicine Hat, Alberta
   (Applicant)
   and
   The Alberta Union of Provincial Employees,
   Edmonton, Alberta
   (Respondent)
   and
   The Public Service Employee Relations Board,
   Edmonton, Alberta
   (Respondent)

On March 19, 1987, the Board issued a decision and reasons reflecting its determinations as to the arbitrability of certain items claimed in dispute and arising as a result of an application to the Board to establish an arbitration board to resolve a collective bargaining dispute.

By application filed on March 30, 1987, the applicant requested the Court of Queen's Bench of Alberta to quash certain parts of the decision of the Board. The judicial review proceedings were adjourned pending disposition of an application to the Public Service Employee Relations Board to reconsider and vary or correct the affected portions of the Board's decision of March 19, 1987.
(PSERB Ref. 140-065-502)

ANNUAL STATISTICS AND COMPARATIVE DATA

April 1, 1986, to March 31, 1987

Section of Act	Nature of Application	Disposition	1984/85	1985/86	1986/87
9	Determinations	Granted	5	4	2
		Dismissed	0	1	1
		Withdrawn	2	1	1
		Outstanding	2	0	1
11	Reconsideration	Granted	3	0	4
		Outstanding	0	0	0
		Refused	8	3	3
25	Certification	Granted	1	2	2
		Refused	1	2	1
		Withdrawn	0	0	0
		Outstanding	2	0	1
46	Appointment of Mediator	Granted	4	4	3
		Withdrawn	0	1	0
49	Establish Arbitration Board	Granted	10	4	6
		Refused	6	11	2
		Withdrawn	4	14	3
		Outstanding	11	0	0
52	Appointment of Chairman & Member to Arbitration Board	Granted	3	2	5
		Refused	0	0	0
		Withdrawn	0	0	0
64	Appointment of Adjudicator	Granted	1	7	9
		Withdrawn	0	0	4
		Refused	1	0	0
74	Unfair Practice Complaints	Granted	0	0	1
		Dismissed	0	1	1
		Refused/ Withdrawn	2	1	2
74	Failure to Bargain in Good Faith	Granted	0	0	0
		Refused/ Dismissed	2	0	1
		Withdrawn	0	0	1
90	Successor Trade	Granted	2	0	0
		Dismissed/ Withdrawn	0	1	0

Days of Board Hearings	— 1983/84	26 Days
	— 1984/85	39 Days
	— 1985/86	24 Days
	— 1986/87	27 Days
Estimated number of employees affected by Certification	— 1983/84	325
	— 1984/85	185
	— 1985/86	329
	— 1986/87	428
Total applications disposed of	— 1983/84	29
	— 1984/85	55
	— 1985/86	36
	— 1986/87	41
Total applications outstanding	— 1983/84	9
	— 1984/85	16
	— 1985/86	0
	— 1986/87	2

budgetary review

Approved Manpower and Operating Costs

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

		% Change
1983/84	411,676*	-40.1*
1984/85	522,313**	+26.9**
1985/86	393,259	-32.8
1986/87	441,770	+12.6

* Includes $ 77,000 Special Warrant.
** Includes $194,000 Special Warrant.

in appreciation

The Board takes this opportunity to publicly express its appreciation to the Honourable Neil Crawford, his Executive Assistant, Mr. John Scrimshaw and staff for their assistance and cooperation in dealing with the concerns of the Board throughout this past year.